

**Report of Chief Officer – Financial Services**

**Report to Corporate Governance and Audit Committee**

**Date: 22<sup>nd</sup> March 2018**

**Subject: Procurement Assurance Report – 2018/19**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

- Following a request by the Corporate Governance and Audit Committee, this report provides information and assurance on procurement policies and practices within the remit of the Council’s central procurement team – Procurement and Commercial Services (**PACS**).
- Each Directorate is accountable for the procurements that they need to secure the outcomes they are responsible for. PACS is accountable for provision of professional support to complex procurement activity. From the review, assessment and on-going monitoring carried out, the Chief Officer – Financial Services has reached the opinion that following the adoption of the updated procurement strategy (the **New Procurement Strategy**), procurement policies and practices will be up to date, fit for purpose, and effectively communicated.
- The New Procurement Strategy is being presented to Executive Board on 17<sup>th</sup> April 2019 with a recommendation for its adoption. The launch of the New Procurement Strategy will be accompanied by a refresh of the Council’s procurement documentation and the Contract Procedure Rules (**CPRs**).
- There has been one formal procurement challenge in the period to which this report relates. On-contract spend remains strong and there is general compliance with procurement policies. This is evidenced by the fact that off-contract/non-contract

spend and waivers of CPRs in order to directly award contracts have reduced marginally, compared to 2017/18. This represents the fourth year in a row that this figure has seen a reduction.

## **Recommendations**

Members are:

- requested to consider and note the assurances provided in this report; and
- invited to provide comments that they may have on the draft New Procurement Strategy.

## **1 Purpose of this report**

- 1.1 This is the annual report of the Chief Officer – Financial Services to the committee, concerning the Council’s procurement function.
- 1.2 Members are asked to consider the ongoing work to maintain effective procurement support tools and guidance, and note the assurance offered by the Chief Officer – Financial Services.

## **2 Background information**

- 2.1 The Council procures a very wide range of goods, works and services, including front-line services and back-office support. The Council’s spend with third parties through procurement and commissioned activity remains close to £800m per annum.
- 2.2 CPRs form part of the Council’s Constitution and are required to be adopted by local government legislation. These are supported by a suite of procurement and guidance documents accessible by commissioners on InSite.
- 2.3 Each Directorate is accountable for the procurements that they need in order to secure the outcomes they are responsible for. Following the disbandment of the former Projects, Programmes and Procurement Unit, accountability for the Council’s procurement function transferred to the Chief Officer – Financial Services. Day-to-day responsibility for delivery of procurements sits with the Head of Commercial as head of service for the central Procurement and Commercial Services (**PACS**). PACS provides professional advice and support to complex procurement activity. Support provided by PACS includes procurement processes and compliance with procurement legislation, identifying and working with services to reduce off-contract spend, identify procurement savings, and provide general check and challenge.
- 2.4 The Council’s procurement strategy currently provides for a category management approach to procurement. It also advocates a whole lifecycle approach, defines clear roles and responsibilities, and provides a suite of documentation which can be tailored proportionately to the risks and value of procurement activity. Key areas of focus for the current procurement strategy are value for money and governance.
- 2.5 While value for money and good governance in procurement remain the cornerstones of the New Procurement Strategy, it recognises the need to compliment efficiency and effectiveness with a much greater focus on delivering maximum benefits locally from Council spending thereby helping the Council achieve its overall strategic objectives set down in the Best Council Plan.
- 2.6 This report reflects procurement activity during 2018/19.

## **3 New Procurement Strategy**

- 3.1 The existing Council procurement strategy is heavily focused on value for money and governance of procurement processes. In respect of the former, it seeks to achieve efficiencies in the procurement process, in particular through a category management approach to procurement – i.e. by grouping our related purchasing

together, rather than individual services separately purchasing, we are able to take advantage of better intelligence of our buying needs and of what providers have to offer, and to support bulk buying where appropriate, in order to improve quality, savings and efficiency.

3.2 While clearly these remain essential aspects of procurement, and the Council relies on continuing procurement efficiencies to support the achievement of a balanced budget each year, it is equally clear that the procurement strategy must be further developed in order:

- to fully reflect the Council's best city ambitions of being "a strong economy and a compassionate city", and "an efficient and enterprising organisation"; and
- to keep pace with the National Procurement Strategy 2018 – taking account of significant current procurement related issues, such as social value (see paragraphs 4.9 to 4.12 for greater detail).

3.3 The following five priority areas have been identified in the New Procurement Strategy:

3.3.1 Value for money and efficiency. Seeking to ensure the Council gets maximum value from every pound that is spent through best value and innovative procurement practice; a consistent corporate approach to commissioning; a clearly identified savings strategy and the continued implementation of a category management approach to procurement.

3.3.2 Governance. Ensuring compliance with the Contract Procedure Rules, the Constitution and the Public Contracts Regulations 2015 in order to manage procurement risk and to comply with legal requirements. This includes matters relating to 'on-contract' expenditure and the use of waivers (see paragraph 3.3, below).

3.3.3 Social Value. Seeking to improve economic, social and environmental wellbeing from our contracts over and above the delivery of the services directly required at no extra cost.

3.3.4 Commercialisation. Seeking new ways to develop and create commercial opportunities through procurement and commissioning activities, not just by promoting revenue generation, but by looking at how we engage with, and influence, the marketplace and potential suppliers in order to drive innovation and develop new ideas around service delivery.

3.3.5 Strategic Suppliers. Effectively managing our strategic supplier relationships through continuous engagement with them and through effective management of all contracts from beginning to end in order to control costs, obtain the quality outcomes and performance levels set out in the contract and minimise the level of risk.

3.4 The New Procurement Strategy also identifies a number of "procurement enablers" which are the cross-cutting issues that we will need to address if we are to realise our ambitions. These enablers cover:

- 3.4.1 ensuring we develop talent by supporting staff to obtain professional qualifications and for apprenticeships;
- 3.4.2 exploiting digital technology such as electronic tendering, Procure 2 Pay systems, electronic invoicing and using technology to enhance our knowledge management by accessing paper and electronic sources to build comprehensive intelligence about contracts, markets and trends;
- 3.4.3 embracing an innovative approach across all Council procurements; and
- 3.4.4 embedding change in the organisation by ensuring that senior managers recognise the importance of procurement and contract management, and promote it as a way of leading and managing organisational change.
- 3.5 Finally, the New Procurement Strategy also provides for a number of KPIs in order to measure performance and progression over the next 5 years in relation to the five priority areas and development of the four procurement enablers.
- 3.6 A copy of the draft New Procurement Strategy is appended to this report at Appendix 1. Members of the committee are invited to provide comments that they may have on the draft New Procurement Strategy.

#### Contracts Procedure Rules

- 3.7 Section 135 of the Local Government Act 1972 requires local authorities to make standing orders for procurement activity, including securing competition and regulating tenders – the CPRs. The CPRs form part of the Council’s Constitution
- 3.8 CPRs are regularly updated to reflect changes in legislation and Council policy. They were previously updated in July 2018, with the major amendments as follows:
  - 3.8.1 References to the Chief Procurement Officer changed to the Chief Officer - Financial Services. The definition of Chief Officer - Financial Services is expanded to include “any Officer within Procurement and Commercial Services who carries out the functions of the Chief Officer - Financial Services under these CPRs”;
  - 3.8.2 The importance of following CPRs has been made clear and that a failure to comply with CPRs may result in disciplinary action;
  - 3.8.3 The CPR relating to “Exclusive Supplier” has been deleted as it was considered to be confusing being that there is a requirement to use “existing contractual arrangements” where in place;
  - 3.8.4 CPRs 7.1 and 8.2 amended such that officers need to consider whether the procurement would be of interest to local suppliers and/or third sector organisations and, if it would, at least 2 of the organisations invited to tender must be local suppliers and/or third sector organisations;
  - 3.8.5 The discretion to raise the threshold of £10K (for low-value procurements) to £25K on a case by case basis has been re-introduced at CPR 7.2;

- 3.8.6 CPRs 8.6 and 9.7 provide that all open opportunities under CPRs must be published on both Yortender and Contracts Finder. Further, at CPRs 7.4, 8.7 and 9.8 it has been made clear that all completed procurements must be registered on YORtender and Contracts Finder;
- 3.8.7 CPRs 7.3, 8.4 and 9.5 have been introduced so that where the relevant Chief Officer considers there is genuinely no competition such that only a particular organisation or provider can meet the Council's specific requirements (e.g. when commissioning a piece of art) a waiver of CPRs need not be obtained. However, the lack of competition must be formally evidenced and approved by the relevant Chief Officer before the contract is entered into;
- 3.8.8 CPR 10.2 has been extended to indicate that a waiver need not be sought where the Council is entering into a co-operation agreement with another public sector body in accordance with Regulation 12 of the Public Contracts Regulations 2015;
- 3.8.9 The EU Thresholds for procuring goods, works and services have been amended to reflect the current levels;
- 3.8.10 CPR 14.1.8 has been expanded to make it clear that tenders under £100K must be opened and receipted in such a way that the transparency and probity of the process cannot be called into question;
- 3.8.11 CPR 18.3 and a new Appendix 1 has been introduced to ensure compliance with the IR35 (tax) legislation; and
- 3.8.12 CPR 27.1 has been amended to make it clear that waivers of CPRs are only permitted in exceptional circumstances.
- 3.9 A further review of CPRs is currently in progress to coincide with the adoption of the New Procurement Strategy.

#### Procurement tools and documents

- 3.10 The key procurement delivery documents and tools are refreshed regularly to reflect legislation and Council policy.
- 3.11 Of particular significance is the ongoing development (in consultation with third sector representatives and the People's Commissioning Strategic Group) of a Social Value Framework which is a toolkit to support implementation within procurement activity of the Social Value Charter.
- 3.12 PACS are currently reviewing and updating the entire suite of procurement documentation to ensure they are user friendly for commissioners, to encourage bidder participation, to focus on innovation and opportunities, and to take account of feedback from officers during consultation on the New Procurement Strategy/CPRs (which indicated that the procurement toolkits on Insite, and in particular Category Management and Exit Plans were no longer fit for purpose, and as such, officers are either not using them effectively or not using them at all).

#### Communicating the Strategy and procurement policies

- 3.13 As well as providing online training and tutorials, each Category team within PACS works closely with commissioning staff within directorates to ensure compliance with CPRs and use of the correct documentation and governance processes.
- 3.14 In addition, following launch, the New Procurement Strategy and supporting tools will be available on InSite, within toolkits dedicated to procurement and category management which are updated when changes are made, and with key changes being further communicated on the InSite carousel.
- 3.15 A cross-council Procurement Practitioner Group meets on a monthly basis to share issues and best practice, and training sessions are organised for procurement staff and commissioners when new significant policy changes (such as the New Procurement Strategy) are implemented.
- 3.16 PACS also hosts the Council-wide Commissioners' Procurement Group, and has representatives on commissioning boards in service areas across the Council.

#### **4 Procurement activity during 2018/19**

- 4.1 PACS' resources are prioritised to supporting high value and/or complex (from a risk perspective) activity.
- 4.2 PACS also provides support in respect of lower value procurements by way of:
  - 4.2.1 an e-learning procurement training module for council staff through the Performance and Learning system which gives guidance and training for staff council-wide to comply with policy, governance and CPRs when ordering goods and services;
  - 4.2.2 Telephone support; and
  - 4.2.1 where non-standard terms and conditions are proposed, the requirement that these are vetted through the commercial team within PACS.

#### Regional Procurement

- 4.3 The Council meets other regional authorities through a Strategic Procurement Group (**SPG**) which meets every six weeks to share best practice, act as the voice of the region on national procurement issues, and promote collaboration opportunities. The Council administers the SPG and reports periodically to the Yorkshire and Humber Chief Executives Group.

#### Value for Money in Procurement

- 4.4 PACS have been actively involved in rolling out the Councils 'Faster Payment Service' whereby the Council would receive a discount in exchange for paying an invoice earlier than standard terms.
- 4.5 The tender documentation has been updated to highlight the Faster Payment Service to potential contractors and include the service in future contracts. In

addition, PACS has been working in conjunction with DIS and holding workshops for commissioners within service areas, explaining the service and advising them to engage with their suppliers to promote the Faster Payment Service. This is intended to achieve greater awareness of the scheme around the Council and also because the commissioners are in a better position to contact suppliers as they already have the relationship with them.

- 4.6 There has also been a significant amount of work from PACS to address barriers that prevent invoices being paid within 10 calendar days. This has involved working with directorates and challenging current processes to enable a faster turnaround on the invoice processing. This work is on-going especially within Children's and Families and Adults and Health.
- 4.7 PACS have also been supporting the Business Support Centre in the implementation of the 'No Purchase Order, No Payment' policy. Whereby invoices will not be paid unless they quote a valid order number. PACS have updated the terms and conditions within the tender documents to reflect this.

#### Social Value

- 4.8 Social Value from procurement is a key element of the Council's wider aspirations for inclusive growth in conjunction with local communities and businesses. Social Value outcomes are monitored by the Council around some key areas of activity, and the beneficial outcomes include the following:
  - 4.8.1 expenditure with local suppliers and SME's equated to 51.97% of total expenditure in 2018/19 (to end Feb), with associated employment and skills outputs from procurement activity and planning agreements;
  - 4.8.2 commissioning the projects on the Learning Places Programme through either the YORbuild framework or existing Leeds Local Education Partnership (LLEP) arrangements (while delivering the required number of school places for Leeds) has created over 2,300 new apprentice and employment positions for local people in Leeds up to June 2017, and ensured that the firms employed have recycled or reused 99% of waste generated during the construction process; and
  - 4.8.3 the Council is committed to the Unison Ethical Care Charter and has been working towards compliance with its principles in relation to externally commissioned home care services. Consequently, in relation to its externally commissioned home care services, the Council has committed to working towards the Rowntree Foundation Living Wage by increasing support to home care providers with a request to them to improve basic pay by injecting an additional c£1 million into these contracts. Additionally, the new home care fee included payment for travel time and travel costs, in accordance with the Charter.
- 4.9 The Council is also developing a collaborative and systematic approach to engaging with anchor institutions. Anchor institutions are those which make a significant contribution to the local economy through the services they provide, the large amount of money they spend and the number of local people they employ. We are promoting collective action on employment, low pay and social responsibility.

- 4.10 A key aspect of social value is improving opportunities for local SMEs. The YORscep supply chain engagement programme will post opportunities on the YORhub website which will be open to all sub-contractors registered, reduce onerous barriers such as lengthy pre-qualification processes, and improve visibility of projects. This in turn should result in even greater values of expenditure being spent locally as a consequence of local SME's working on large projects, and quality opportunities becoming available to local businesses and people.
- 4.11 Monitoring of wider social value outcomes is anticipated to increase as the Social Value Framework is adopted, and it is proposed that PACS should take a lead role in this regard.

#### Contractor Insolvency and Profit Warnings

- 4.12 The recent collapse of a number of high profile construction/facilities management companies in the UK has served to re-inforce the importance of good contracts and contract management practices but also the need for robust procurement on behalf of the Council, as good procurement will ultimately lead to good contracts.
- 4.13 To address this issue, PACS have produced a guidance and policy document for commissioners and contract managers within the Council relating to company financial health checks and profit warnings. The document highlights actions that can be undertaken prior to entering into a contract as well as during the contract period in order to provide reasonable mitigations against the risk of contractor insolvency. The document will be launched at the same time as the New Procurement Strategy, updated CPRs and procurement documentation. It will be referenced in the updated CPRs, and a copy of the guidance will be published on Insite.

#### YORtender procurement portal and data transparency

- 4.14 The Council (along with other Yorkshire and Humber regional authorities) has used YORtender as its procurement portal for the last 6 years, enabling electronic tendering for the vast majority of procured spend. The Council is responsible for the regional contract management for YORtender which, along with the on-going SPG programme management, generates £74k of external income for the Council.
- 4.15 PACS provide YORtender training and support across the Council with on-site training sessions, phone/email conversations and an on-line interactive tutorial.
- 4.16 YORtender also provides collaboration successes with other authorities in the region such as the White Rose Looked After Children framework.
- 4.17 CPRs require all spend over £10k to be registered through YORtender.
- 4.18 Under the Government's Transparency Code local authorities must publish details (including a unique reference, a description of the goods/services/works and dates for review) of every invitation to tender for contracts to provide goods and/or services with a value that exceeds £5,000. This requirement is complied with through publication through the YORtender portal for Spend of over £10,000 and by manual analysis of any spend exceeding £5,000 within FMS.

- 4.19 Local authorities must also publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000. The Council's Contracts Register published on Data Mill North fulfils this requirement along with a separate report for items below the threshold for publication on YORtender which also covers non and off-contract spend items.
- 4.20 The Council, in its role as SPG programme manager, is leading (on behalf of SPG) the joint procurement of a new and updated e-tendering system for the region alongside the North East Purchasing Organisation. The new system will replace YORtender when it expires on 31<sup>st</sup> December 2020.

#### Monitoring Contracts Procedure Rules

- 4.21 CPRs require Chief Officers to involve and/or consult with PACS for specified procurement activity, and also requires PACS to be informed of the following activity: waivers, extensions, variations of high value contracts, where the template procurement plan or contract management plan is not to be used, breaches of CPRs and where ISPs (internal service providers) are not used. Members should note that aside from monitoring of non and off contract spend and waiver activity, current resources do not permit additional significant monitoring of compliance, however the contract award process for contracts above £100k, internal audit reports and the ongoing training and support provided to directorates (see above) offer further assurance around compliance.
- 4.22 CPRs allow certain rules to be waived in circumstances where relevant Chief Officers consider a course of action to be justified, provided that the PACS is informed when waivers are approved by Chief Officers, and that such waiver decisions are published as Significant Operational Decisions. However, issues relating to the inappropriate use of waivers of CPRs have been the subject of scrutiny over many years.
- 4.23 PACS officers have recently adopted a more robust, automated process for capturing waivers from the decision register, which consequently allows officer resource to concentrate on seeking to understand the detail of each particular waiver, rather than finding and logging the information. This has improved the accuracy of the register of waivers.
- 4.24 PACS officers have also been focusing on the issue of waivers that have not also been registered on the Council's e-tendering system "YORtender". PACS has been assisting directorates in setting up these records and this has seen a rise from just 5% of waivers previously having been recorded on YORtender, to a current figure of 71%. This area of work provides a lot of information that has previously been missing, including supplier names, waiver periods and amounts. This also ensures that the Council is in line with its own policies and the Public Contract Regulations 2015 for the publication of public contract awards.

Recent analysis, utilising the more effective search tools referred to above, has identified 189 waivers of CPRs in the current financial year. This is an increase on recent previous years, however this is attributable to the improvements in terms of the adoption of the more robust, automated process for capturing waiver

information. Of these 189 waivers, only 38 were properly recorded as being related to timing and resource issues (i.e. there was insufficient time to procure the contract in accordance with CPRs), and of those 38, only 7 were above the key decision threshold. This indicates that the majority of waivers in the current year have either been raised in line with CPR requirements or (in some circumstances) were not necessary (e.g. where contract value is up to £25,000, a direct award is permissible without the need to waive CPRs).

- 4.25 In addition, the latest figure for “on-contract” spend for the 2018/19 is **96.6%** of orders are on contract or compliant with CPRs. This is a slight increase from the 96.3% reported last year, and is the fourth consecutive year that this figure has increased (see below).
- 4.26 The evidence therefore suggests that the CPR waiver regime is (for the most part) being utilised in an appropriate fashion. However, it is recognised that there is still room for improvement in respect of the waiver process – for example, with regard to record keeping, consultation with PACS before taking a decision to waive CPRs, clarity of rationale behind a waiver and officer understanding of the waiver process. In respect of trying to improve officer understanding of how waivers of CPRs should properly be utilised, information on the Council’s intranet (InSite) has been reviewed and amended to make the process of waivers easier to follow and clearer to understand, and a flow chart of the process has also been published. In addition, a single format of contract register linked to the YORtender system has been adopted which includes clear dates in relation to contract expiry and a series of early warnings as to key procurement and decision making dates.
- 4.27 Internal Audit has carried out a review of the use of waivers and key recommendations from this include:
- changing the process for issuing waivers under the CPRs to require final check and challenge by PACS officers **before** a waiver decision, to ensure integrity and the correct use, and for them to be centrally recorded;
  - a more robust template (tick-list) is to be included on the template waiver report in order to make the rationale for raising the particular waiver clear on the face of the waiver report;
  - full training to be provided to decision makers and those responsible for signing waivers; and
  - learning lessons from waivers to ensure continual improvement and strategic planning (to avoid future similar waivers).
- 4.28 These changes will strengthen the current procedure and allow a greater level of check and challenge, and present the opportunity for PACS to give advice and have visibility of the proposed waiver before the relevant decision is made. From the change in process there will also be greater detail in the reporting information gathered and the reason for the waiver being raised should be easier to identify.
- 4.29 Appropriate use of waivers of CPRs is identified as a KPI in the New Procurement Strategy as part of the commitment to good governance.

4.30 Monitoring of the use of waivers will continue, and will be reported to the Corporate Governance and Audit Committee and to R&H Scrutiny Board.

4.31 Internal Audit also carry out audit activity on a small number of specific procurements each year.

#### On/off contract spend

4.32 PACS continues to monitor off contract spend through FMS, actively collaborating with colleagues in the wider council including the Business Support Centre, Corporate Finance and directorates (via their feeder systems) in order to have visibility of non and off-contract spend.

4.33 PACS produces monthly and quarterly reports detailing non and off-contract spend. These reports are used to inform monthly meetings with PACS Category Managers and their meetings with directorate contacts. The activity has enabled off contract spend to remain at minimum levels compared to total spend this financial year.

4.34 The latest figure for on-contract spend to the end of February 2019 is **96.6%** of orders are on contract or compliant with CPR's. This is marginally better than the 2017/18 figure of **96.3%** and continues to compare extremely favourably to 2016/17 **95.7%** and 2015/16 **89.8%**.

4.35 It has been recognised generally within the Council that there is a need to provide FMS users, specifically those raising orders, with more training to improve compliance. The training now being rolled out focuses on contract compliance and how to raise an order. The PACS team are currently receiving a large volume of queries in the form of e-mails and telephone calls. The training is aiming to alleviate both directorate and PACS queries, increase awareness of CPR's and reduce the cost of producing a purchase order. To date PACS have delivered the training to over 400 officers. The benefits of this training has already been seen with an improvement to compliance and significant reduction in the amount of queries received and a reduced levels of non and off contract expenditure, in addition to greater communication within service areas.

4.36 PACS staff have undertaken an exercise to classify suppliers within FMS to easily identify whether they are Local or SME's. The benefit of this is that reporting around these classifications was a manual process and time consuming. The information now held on the system reduces reporting time and adds clarity to the system.

4.37 A new contract expenditure analysis is now distributed at directorate and service level so that expenditure by directorates with suppliers who do not hold a valid contract is visible and action can be identified and undertaken. This report gives an overview to Directorates whether expenditure is compliant with CPR's. Collaboration with Directorates using the report has been successful toward eliminating non-compliance and ensuring best value is achieved from council expenditure.

4.38 PACS has created an interactive tutorial providing a step-by-step guide to running low impact procurements (under £100k). This breaks the tender process into nine easy to follow steps. This has made it easier for Directorates to raise procurements

through YORtender. Telephone support is also currently available through PACS for this process. This has been rolled out to over 150 people within the Council.

- 4.39 PACS staff have been continuing to be actively focused on the orders raised for low value items (under £5k) as a previously reported action. PACS have been challenging expenditure where there is a known contract with a supplier that has not been used and also where CPR's have not been visibly followed, following this up with advice and guidance on the correct process to follow. This has significantly reduced the number of orders that are raised incorrectly.
- 4.40 On-contract compliance is also addressed in the New Procurement Strategy as part of the ongoing commitment to good governance in procurement (with related KPIs).

#### Challenges to procurement activity

- 4.41 There have been a number of requests for additional information in response to standstill letters however only one of those requests developed into formal proceedings to challenge the decision by the Council to award a contract in relation to the Leeds City ICT Goods Supply, Maintenance, Disposal and Services Framework. The challenge resulted in DIS abandoning the procurement exercise. A review of the service requirements etc. is currently underway. In the meantime DIS have entered into a number of individual contracts to ensure service continuity, with the intention of undertaking a new procurement exercise once the service requirement review is complete.

#### Brexit

- 4.42 This is being kept under review. The proposed new procurement regulations are, for the most part, the same as the existing rules (with appropriate amendments to take account of practical changes like utilising a UK-based online portal, rather than the EU tendering portal).
- 4.43 While letters have been issued to contractors querying potential implications of Brexit, very few have identified any specific issues at this time.

#### FOI requests

- 4.44 PACS receives and responds to a significant number of FOI requests, with 51 received in 2018/19 to date. Many of the requests relate to information available on Leeds Data Mill (see above).

## **5 Corporate Considerations**

### Consultation and Engagement

- 5.1 Review of the procurement strategy commenced with consultation with the corporate commissioning group, the people's commissioning group and the public health board. A "Masterclass" workshop has also been held with all commissioners and a draft of the New Procurement Strategy was taken to the December 2018 Executive Board. The New Procurement Strategy will be presented to R&H Scrutiny Board and then to Executive Board in April 2019 for final approval.

- 5.2 Reviews of procurement documentation also involve consultation with users in the services. The annual CPR review involves wider consultation involving commissioners, and the City Solicitor. Third sector representatives are periodically asked whether any barriers exist to small/third sector organisations, and any comments are fed into the document reviews. Third sector representatives and the People's Commissioning Strategic Group have also been consulted in respect of the Social Value Framework.

#### Equality and Diversity / Cohesion and Integration

- 5.3 There are no implications for this report. The procurement processes require consideration of equality matters and social value within procurement activity

#### Council policies and Best Council Plan

- 5.4 Effective procurement activity supports the Council's ambitions of a strong economy and a compassionate city, and the New Procurement Strategy is specifically drafted in response to the Best Council Plan. Individual procurements support most/all of the Council's priorities and breakthrough projects.

#### Resources and value for money

- 5.5 The systems and processes anticipated by the New Procurement Strategy (and the documented KPIs) represent an appropriate use of resources and are good value for money. Additionally the procurement activity supported enables both cashable and non-cashable savings to be made in the commissioning lifecycle.

#### Legal Implications, Access to Information and Call In

- 5.6 The arrangements put in place through the New Procurement Strategy, CPRs and procurement tools and documentation meet all legal requirements.

- 5.7 This report is not eligible for call-in

#### Risk Management

- 5.8 The systems and processes that form part of the Council's procurement framework are currently functioning well, and it is anticipated that they will be improved following the adoption of the New Procurement Strategy. One of the Resources and Housing Directorate risks relates to risk of procurement challenge. As set out above there has been one formal challenge to procurement activity in the year to date, and work is continuing to ensure the tender guidance is embedded through training and monitoring.

## **6 Conclusions**

- 6.1 From the review, assessment and ongoing monitoring carried out, the Chief Officer – Financial Services considers that it is demonstrated that, overall, procurement systems are operating effectively and that there are no fundamental control weaknesses. This position will be improved by the adoption of the New Procurement Strategy, updating CPRs/procurement documentation and measuring/monitoring compliance via the KPIs. At the same time, it is recognised

that procurement assurance needs to be subject to regular review and assessment with the following actions already identified for 2019/20:

- Adoption of the New Procurement Strategy (including KPIs) and procurement documentation;
- Review of CPR's in line with changes in legislation and Council policy; and
- Training of relevant officers in respect of the same.

Compliance remains an issue in some areas, notably around justification in reports considering waivers, however the proposed process changes and amendments to CPRs are anticipated to be of benefit in this regard and will provide a much clearer picture of the actual number of, and justifications for, waivers of CPRs.

## **7 Recommendations**

7.1 Members are:

7.1.1 requested to consider and note the assurances provided in this report; and

7.1.2 invited to provide comments that they may have on the draft New Procurement Strategy.

## **8 Background documents<sup>1</sup>**

8.1 None.

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.